

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

In re:

Gary F. Frascarelli dba Gary's Ice Cream,

Debtor.

Chapter 13
Case No. 10-40810-HJB

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

Atlas Mortgage Corp. (“Atlas”), the first mortgagee on the Debtor’s residence, objects to the Debtor’s Chapter 13 Plan, and states as follows:

1. Atlas is the holder of a first mortgage dated December 19, 2001, on the Debtor’s principal, single-family residence known and numbered at 105 Carlisle Street, Chelmsford, Massachusetts (the “Property”). The mortgage is in the original principal amount of \$17,000.00 and is recorded with the Middlesex North Registry of Deeds in Book 125128, Page 306.
2. The Debtor filed the instant Chapter 13 proceeding on March 2, 2010.
3. As of the date of the filing, the obligations secured by the mortgage were fully matured and due and payable in the amount of \$17,000.00 principal, plus \$1,359.20 in interest, \$88.00 in late fees, \$1,298.75 in legal fees and \$69.78 in costs. Interest has continued to accrue since that date in the amount of \$7.08 per day, and post petition legal fees are being incurred as well.
4. The Debtor’s Plan only provides for monthly interest payments to be paid to Atlas. Consequently, the Debtor’s Plan violates 11 U.S.C. Section 1322(b)(5) in that the Plan does not propose to pay the amount owed to Atlas in full over the term of the Plan.

WHEREFORE, Atlas prays that confirmation of the plan be denied and this case be dismissed or converted to a case under Chapter 7 of the Bankruptcy Code, or in the alternative, that the Plan be modified to satisfy the entire debt owing to Atlas within the term of the Plan in equal periodic payments.

Respectfully submitted,

ATLAS MORTGAGE CORP.,
By its attorney,

/s/ Jacob A. Esher
Jacob A. Esher (BBO: 544885)
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Dated: May 7, 2010

CERTIFICATE OF SERVICE

I, Jacob A. Esher, hereby certify that on May 7, 2010, I served a copy of the foregoing upon the following persons, via the CM/ECF System, first class mail, postage prepaid, facsimile, and/or electronic mail, as indicated:

Via CM/ECF:

Richard King, Esquire, Assistant U.S. Trustee
Denise M. Pappalardo, Esquire, Chapter 13 Trustee
Michael B. Feinman, Esq. for the Debtor
Deirdre M. Keady, Esq. for CitiMortgage, Inc.
Jeffrey J. Hardiman, Esq. for Sovereign Bank

/s/ Jacob A. Esher